

EXHIBIT 450

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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IN RE: NATIONAL	:	
PRESCRIPTION	:	MDL No. 2804
OPIATE LITIGATION	:	
	:	Case No.
	:	1:17-MD-2804
THIS DOCUMENT RELATES	:	
TO ALL CASES	:	Hon. Dan A. Polster

- - -

Monday, January 7, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

- - -

Videotaped deposition of TOM NAMETH, held at
the offices of Cavitch, Familo & Durkin,
1300 East Ninth Street, Cleveland, Ohio, commencing at
9:03 a.m., on the above date, before Carol A. Kirk,
Registered Merit Reporter and Notary Public.

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<p style="text-align: right;">Page 110</p> <p>1 the IT side.</p> <p>2 Q. Okay. Was there ever any</p> <p>3 discussion about whether a report like that</p> <p>4 would be useful in detecting and halting</p> <p>5 diversion in its tracks?</p> <p>6 A. No.</p> <p>7 Q. Okay. All right. We're going to</p> <p>8 turn to what Mr. Knoll is going to mark as</p> <p>9 Exhibit 3.</p> <p>10 MR. MULLIGAN: Actually, you know</p> <p>11 what, before we get there, Jon, I've got</p> <p>12 a couple questions. So mark it and</p> <p>13 we'll just --</p> <p>14 BY MR. MULLIGAN:</p> <p>15 Q. You'd agree, Mr. Nameth, that</p> <p>16 patient and customer safety are DDM's first</p> <p>17 priority?</p> <p>18 A. I would agree.</p> <p>19 Q. Okay. Along with maybe staying in</p> <p>20 business?</p> <p>21 A. Well ...</p> <p>22 Q. Is that fair?</p> <p>23 A. I would say that we have a</p> <p>24 responsibility to our customers' patients, yes.</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. Okay. And so let's talk about</p> <p>2 this a little more.</p> <p>3 Did that system have to prevent</p> <p>4 diversion or simply identify it and respond to</p> <p>5 it after the fact; do you know?</p> <p>6 A. Well, it would prevent diversion</p> <p>7 as far as looking at the system and knowing</p> <p>8 whether it was diversion or not. If it wasn't,</p> <p>9 then it wouldn't be diversion.</p> <p>10 Q. Your report would only allow you</p> <p>11 to identify it had already happened --</p> <p>12 A. Yes.</p> <p>13 Q. -- which would then potentially</p> <p>14 enable you to try and stop it in the future,</p> <p>15 right?</p> <p>16 A. Well, but by following up,</p> <p>17 wouldn't we be actually looking at that</p> <p>18 particular issue?</p> <p>19 Q. Well, you tell me.</p> <p>20 A. Yes. I mean, we would look at a</p> <p>21 particular issue and follow up with a written</p> <p>22 report and find out whether it was diversion or</p> <p>23 not. So ...</p> <p>24 Q. But you'd agree that that's</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. Okay. Do you agree that DDM as a</p> <p>2 handler of controlled substance also has an</p> <p>3 obligation to the general public to prevent</p> <p>4 diversion of opioids?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And would you agree that</p> <p>7 DDM was legally required to implement a system</p> <p>8 of effective controls to prevent diversion?</p> <p>9 A. We were required to have a system.</p> <p>10 Q. Okay. To prevent diversion,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And not to respond to it,</p> <p>14 right?</p> <p>15 A. Well, now, you're getting into --</p> <p>16 we felt our system was adequate for what we</p> <p>17 needed to be done.</p> <p>18 Q. Okay. And what you needed to be</p> <p>19 done is defined by the Controlled Substances</p> <p>20 Act, right?</p> <p>21 A. Yes.</p> <p>22 Q. And you're a pharmacist, and you</p> <p>23 know that, right?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 113</p> <p>1 identifying that diversion has already happened,</p> <p>2 so it's not actually preventing diversion,</p> <p>3 agree?</p> <p>4 A. What it is, it's -- in my opinion,</p> <p>5 it's preventing diversion by looking at the</p> <p>6 system and determining whether there's diversion</p> <p>7 or not. What you're asking is, are you going to</p> <p>8 stop an order before it went out the door?</p> <p>9 Q. Correct.</p> <p>10 A. No, it did not.</p> <p>11 Q. Okay. So it potentially was a</p> <p>12 tool that could put you on notice that diversion</p> <p>13 had already occurred and then give you the</p> <p>14 option to try and stem it or prevent it in the</p> <p>15 future, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And you guys never</p> <p>18 identified a suspicious order, right?</p> <p>19 A. Right.</p> <p>20 Q. And so you never determined that</p> <p>21 any diversion was taking place regarding</p> <p>22 suspicious orders, right?</p> <p>23 A. Right.</p> <p>24 Q. And so, therefore, you guys didn't</p>

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Thursday, December 6, 2018

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Videotaped deposition of JASON BRISCOE, held
at the offices of Cavitch, Familo & Durkin,
1300 East Ninth Street, Cleveland, Ohio, commencing at
9:05 a.m., on the above date, before Carol A. Kirk,
Registered Merit Reporter and Notary Public.

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<p style="text-align: right;">Page 126</p> <p>1 distributor's registration are set forth in 21</p> <p>2 U.S.C. 823(e). Listed among these factors is</p> <p>3 the duty of the distributors to maintain</p> <p>4 effective controls against diversion of</p> <p>5 controlled substances into other than legitimate</p> <p>6 medical, scientific, and industrial channels."</p> <p>7 Correct?</p> <p>8 A. Yes.</p> <p>9 Q. It's crystal clear from this 2006</p> <p>10 letter that the DEA, through the Department of</p> <p>11 Justice, thought it was extremely important,</p> <p>12 critical, that distributors fulfill its role to</p> <p>13 implement a system to identify suspicious</p> <p>14 orders, correct?</p> <p>15 MR. JOHNSON: Objection.</p> <p>16 A. Maintain effective controls</p> <p>17 against diversion of controlled substances, so</p> <p>18 yes.</p> <p>19 Q. It was critical?</p> <p>20 MR. JOHNSON: Objection.</p> <p>21 A. Their words or my opinion?</p> <p>22 Q. A simple question. It doesn't</p> <p>23 matter whose words or your opinion.</p> <p>24 It was critical that DDM design</p>	<p style="text-align: right;">Page 128</p> <p>1 other than legitimate, medical, scientific, and</p> <p>2 industrial channels."</p> <p>3 Did I read that right?</p> <p>4 A. You did.</p> <p>5 Q. All right. Let's stop and focus</p> <p>6 on that sentence for a minute.</p> <p>7 So in addition to reporting</p> <p>8 suspicious orders -- that's reiteration from the</p> <p>9 DEA Number 1.</p> <p>10 Do you see that in that sentence?</p> <p>11 A. If an order had been deemed</p> <p>12 suspicious, it's required to report, yes.</p> <p>13 Q. A distributor has a statutory</p> <p>14 responsibility to exercise due diligence to</p> <p>15 avoid filling that order?</p> <p>16 A. It said to avoid filling</p> <p>17 suspicious orders.</p> <p>18 Q. Yes, sir. DDM filled the orders</p> <p>19 as they came in, whether it was identified as an</p> <p>20 anomaly on a subsequent report or not, correct?</p> <p>21 MR. JOHNSON: Objection.</p> <p>22 A. With the exception of the six-week</p> <p>23 average report that could have led to an error,</p> <p>24 that would have prevented that order from ever</p>
<p style="text-align: right;">Page 127</p> <p>1 and implement a system to identify and report</p> <p>2 suspicious orders?</p> <p>3 A. It was their regulation, which we</p> <p>4 would, you know, take seriously and adhere to,</p> <p>5 yes.</p> <p>6 Q. The DEA reiterates in the</p> <p>7 paragraph below that, the 1301.74(b), with the</p> <p>8 reg that we just looked through, reiterating</p> <p>9 that it's extremely important for DDM to have a</p> <p>10 system designed to identify suspicious orders,</p> <p>11 correct?</p> <p>12 MR. JOHNSON: Objection.</p> <p>13 A. How did you characterize --</p> <p>14 Q. Just a reminder, another</p> <p>15 reiteration from the DEA --</p> <p>16 A. Yes.</p> <p>17 Q. -- quoting to 1301.74, correct?</p> <p>18 A. Reiteration, yes.</p> <p>19 MR. JOHNSON: Objection.</p> <p>20 Q. Skip a paragraph. "Thus, in</p> <p>21 addition to reporting all suspicious orders, a</p> <p>22 distributor has a statutory responsibility to</p> <p>23 exercise due diligence to avoid filling</p> <p>24 suspicious orders that might be diverted into</p>	<p style="text-align: right;">Page 129</p> <p>1 being processed.</p> <p>2 Q. The inventory management system?</p> <p>3 A. Yes.</p> <p>4 Q. Other than that, can you point me</p> <p>5 to one order at DDM from 2006 until today that</p> <p>6 was not filled, despite the fact it appeared as</p> <p>7 an anomaly on the controlled monitor --</p> <p>8 monitoring system report that we discussed</p> <p>9 earlier?</p> <p>10 MR. JOHNSON: Objection.</p> <p>11 A. My answer is I don't believe that</p> <p>12 I could; however, I don't know that if there</p> <p>13 were a situation by which an order was not sent</p> <p>14 but yet populated in that report as if it was</p> <p>15 received, that would be one example where --</p> <p>16 that would -- that would be something I -- I</p> <p>17 don't know for 100 percent certainty. But I</p> <p>18 don't know of any documented examples of what</p> <p>19 you described.</p> <p>20 Q. So DDM would fill orders, populate</p> <p>21 a report subsequently as an anomaly, and then</p> <p>22 perform due diligence, correct?</p> <p>23 A. We would first do the Tom</p> <p>24 Nameth/Jason Briscoe review, and then, if it</p>